

UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF RHODE ISLAND

JUAN VALDERA, SOBIEDA VALDERA
and BAHIJ BOUTROS

Plaintiffs

v.

20-cv-470-JJM-PAS

PHH MORTGAGE CORPORATION and
DEUTSCHE BANK NATIONAL TRUST COMPANY
AS TRUSTEE FOR THE REGISTERED HOLDERS
OF CBA COMMERCIAL ASSETS, SMALL
BALANCE COMMERCIAL MORTGAGE
PASS-THROUGH CERTIFICATES, SERIES 2006-1

Defendants

AFFIDAVIT OF ATTORNEY SUSAN W. CODY IN SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT

I, Susan W. Cody, Esq, depose on oath as follows:

1. I have been admitted to practice law in the State of Rhode Island since 1999. My primary practice area is creditor's rights, including representation of mortgage holders and mortgage servicers in prosecuting foreclosures and evictions and representing such parties in related bankruptcy and litigation matters. I have also practiced law and been admitted in Massachusetts since 1988 and in New Hampshire since 2000.
2. I became associated with the law firm of Korde & Associates, P.C. ("the Firm") in Lowell, Massachusetts in 2007 and am now a partner in the Firm.
3. The Firm maintains a Case Management System in which each new referred matter is assigned a distinct, 8-digit case number in connection with which an electronic file is created and maintained by attorneys and staff working on the assigned matter.

4. In the electronic file, communications with the client, borrowers and/or their counsel and any third parties are memorialized in the “comments” section of the electronic file. Case developments are also memorialized in the comment section of the file. Each entry includes the date and time such entry was made and the identity of the staff member or attorney who made the entry.
5. Documents or written communications as sent to or received from the client, borrowers and/or their counsel and any third parties are saved to the File Documents section of the electronic file. The Case Management System (“CMS”) records and maintains the date on which each document upload to the electronic file is made.
6. CMS reflects that we received a foreclosure referral in connection with the mortgage loan that is the subject of Plaintiffs’ Complaint filed in this matter from the predecessor of the Defendant, PHH Mortgage Corporation (“PHH”)¹ as servicer for the Co-Defendant in this matter, Deutsche Bank National Trust Company, as Trustee for the Registered Holders of CBA Commercial Assets, Small Balance Commercial Mortgage Pass-Through Certificates, Series 2006-1 (“Deutsche Bank”) in December of 2017.
7. The referral referenced in preceding paragraph relates to that certain mortgage given by the Plaintiffs, Sobieda Valdera, Juan Valdera and Bahij Boutros, to New Century Mortgage Corporation (“New Century”) dated August 1, 2005 in the original principal amount of \$300,000.00 and encumbering the property known as 273-275 Rand Street, Central Falls,

¹ The predecessor was Ocwen Loan Servicing, LLC (“Ocwen”). Ocwen merged with and into PHH Mortgage Corporation in June of 2019. See Certificate of Merger on file with the New Hampshire Secretary of State’s Office as true copy of which as downloaded by me on the SOS website on January 12, 2022 is attached hereto at Exhibit A.

Rhode Island (the "Property") as recorded with the Central Falls Land Evidence Records in Book 621, Page 253 (the "Mortgage").

8. The Mortgage secures a promissory note given by the Plaintiffs to New Century in original principal amount of \$300,000.00 dated August 1, 2005 (the "Note").
9. On May 29, 2020, I caused to be mailed through iMailTracking, LLC to the Plaintiffs a Notice of Default and Mortgagee's Right to Foreclose and Notice of Availability of Mortgage Counseling Services pursuant to R.I. Gen. Laws §34-27-3.1 (collectively, the "Foreclosure Counseling Letters"). The Foreclosure Counseling Letters were mailed via first-class mail and certified mail on May 29, 2020 to the following individuals/addresses:
 - (a) Sobieba Valdera
c/o John B. Ennis, Esq.
1200 Reservoir Avenue
Cranston, RI 02920
 - (b) Jack D. Pitts, Esq., Pitts & Burns
635 Killingly St.
Johnston, RI 02919
 - (c) Sobieda Valdera
273-275 Rand Street
Central Falls, RI 02863
 - (d) Juan Valdera
273-275 Rand Street
Central Falls, RI 02863
 - (e) Bahij Boutros
c/o John B. Ennis, Esq.
1200 Reservoir Avenue
Cranston, RI 02920
 - (f) Bahij Boutros
273-275 Rand Street
Central Falls, RI 02863
 - (g) Sobieda Valdera
54 Woodside Avenue
West Warwick, RI 02893
 - (h) Sobieda Valdera
22 Montgomery Street
Pawtucket, RI 02860
 - (i) Juan A. Valdera
416 Lonsdale Avenue Apt 1L
Pawtucket, RI 02860
 - (j) Juan A. Valdera
48 Glenham Street
Providence, RI 02907
 - (k) Juan A. Valdera
27 Capital Street
Pawtucket, RI 02860
 - (l) Juan Valdera
c/o John B. Ennis, Esq.
1200 Reservoir Avenue
Cranston, RI 02920

(m) Bahij Boutros
155 Camp Street
Providence, RI 02906

(r) Juan Valdera
34 Parker Street
Central Falls, RI 02863

(n) Bahij Boutros
62 Waites Corner Road
West Kingston, RI 02892

(s) Bahij Boutros
277 Rand Street
Central Falls, RI 02863

(o) Juan A. Valdera
138 Lonsdale Main Street
Apt. 2
Lincoln, RI 02865

(t) Sobieda Valdera
34 Parker Street
Central Falls, RI 02863

(p) Bahij Boutros
394 Woodbine Street
Cranston, RI 02910

(u) Juan Valdera
138 Lonsdale Main Street Apt 2
Lincoln, RI 02865

(q) Bahij Boutros
34 Parker Street
Central Falls, RI 02863

(v) Sobieda Valdera
c/o Jack D. Pitts, Esq.
Pitts & Burns
635 Killingly Street
Johnston, RI 02919

10. A true and correct copy of the Foreclosure Counseling Letter is attached hereto as Exhibit B.

11. iMailTracking, LLC provided to Korde & Associates, PC a Declaration of Mailing digitally signed by Jacob Smith, Mail Production Specialist, declaring under penalty of perjury that he mailed the Foreclosure Counseling Letter. A true and correct copy of the Declaration of Mailing is attached hereto as Exhibit C.

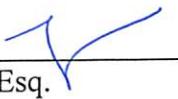
12. The Declaration of Mailing attached here as Exhibit C is split into first-class mail and certified mail pages. Entry Number 20 of the Certified Mail sheet shows a reference number of 71969002484062147389 and the name "Juan Valdera, 138 Lonsdale Main Street, Apt. 2, Lincoln, RI 02865".

13. Attached hereto as Exhibit D is a certified mail “green card” with a signature by “Juan Valdera” and reflecting a date of delivery of June 3, 2020. The Green Card lists a sequence of numbers under the Article Number. The sequence of numbers is 71969002484062147389 which matches the number listed in Entry Number 20 of the Declaration of Mailing from iMailTracking, LLC at Exhibit C. The reference number of 17-031157 and mailing number of 0005305-01 that appears on the Declaration of Mailing also appears on the Green Card in section 1 above Juan Valdera’s name and address.
14. The Defendants, through Korde & Associates, PC, scheduled a foreclosure sale of the Property for September 10, 2020 at noon. I caused a Notice of Intention to Foreclose to be mailed to each of the parties and at the addresses referenced in paragraph no. 9 hereof on July 17, 2020. Each of these Notices of Intention for Foreclose stated that the Notice of Sale would be published in the Pawtucket Evening Times on August 19, 2020, August 26, 2020 and September 2, 2020, respectively.
15. The Firm received a letter from Plaintiffs’ attorney, John B. Ennis, dated August 15, 2020 in which he indicated that the Plaintiffs were disputing the debt evidenced by the Note and Mortgage and were otherwise disputing (a) that the Note is negotiable instrument and (b) Deutsche Bank’s authority to foreclose the Mortgage (“Debt Dispute Letter”). A true copy of the Debt Dispute Letter is attached hereto as Exhibit E.
16. In light of the Firm’s receipt of the Debt Dispute Letter, I caused the September 10, 2020 foreclosure sale to be canceled to allow (a) the Firm to respond to the Debt Dispute Letter on behalf of Deutsche Bank and its servicer, PHH and (b) the Plaintiffs to have the benefit of the Firm’s written response and a reasonable period of time to review such response before the Firm proceeded with foreclosure of the Property.

17. The Firm, on behalf of Deutsche Bank and PHH, issued a detailed response to the Debt Dispute Letter to Attorney Ennis via Email and Regular Mail on September 3, 2020. The Firm's response, with exhibits, totaled 83 pages; a true copy of such response is attached here as Exhibit F.

18. Deutsche Bank, through the Firm, re-noticed and re-published the foreclosure sale of the Property for November 4, 2020 at 2:00 p.m.

Signed under the pains and penalties of perjury this 13th day of January 2022.

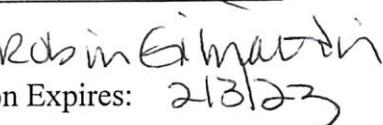

Susan W. Cody, Esq.
RIB # 6150

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX SS.

January 13, 2022

Then personally appeared before me Susan W. Cody who is personally known to me to be the person who signed the foregoing instrument and swore and affirmed to me that the information contained in the foregoing affidavit is true and correct.


ROBIN A. GILMARTIN
Notary Public
Commonwealth of Massachusetts
My Commission Expires
February 3, 2023


Robin A. Gilmartin
Notary Public 
My Commission Expires: 2/3/23